

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CIT Bank, N.A.

Plaintiff,

-against-

ORDER ADOPTING R&R

17-CV-2135 (DRH)(AKT)

KERRY WILLIAMS, CAMILLA
WILLIAMS, and LR CREDIT 22, LLC

Defendants.

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HURLEY, Senior District Judge:

INTRODUCTION

Presently before the Court is the Amended Report and Recommendation (“Amended R&R”), dated May 24, 2018, of Magistrate Judge A. Kathleen Tomlinson. Plaintiff originally moved for default judgment on August 22, 2017. This Court referred the motion to Judge Tomlinson on August 23, 2017. Judge Tomlinson held an inquest on January 17, 2018, and issued a Report and Recommendation (the “R&R”) on March 2, 2018. On March 20, 2018, this Court denied Plaintiff’s motion for default judgment and terminated Judge Tomlinson’s R&R based on Plaintiff’s failure to comply with Judge Tomlinson’s order to serve a copy of the R&R “forthwith.” That same day, Plaintiff moved to vacate this Court’s Order for reasons that are not now relevant. Plaintiff thereafter filed an affidavit of service on April 5, 2018, and the Court granted the motion to vacate its Order denying the motion for default judgment. On April 26, 2017, the Court adopted Judge Tomlinson’s R&R, and issued an Order directing Plaintiff to file a revised Proposed Judgment of Foreclosure and Sale that comported with the R&R. On May 10, 2018, Plaintiff filed a revised Proposed Judgment of Foreclosure and Sale that failed to comply with the R&R. On further inspection, the Court determined that there were certain

inconsistencies in the numbers due to Plaintiff's failure to alert the Court to a \$14,171 credit for payments made. Accordingly, Judge Tomlinson issued the Amended R&R.

In the Amended R&R, Judge Tomlinson recommends that the Court (1) grant Plaintiff's motion for default judgment; (2) enter a revised Judgment of Foreclosure and Sale to be submitted by Plaintiff that comports with the Amended R&R's recommendations; (3) set total damages in an amount of \$436,838.89; (4) and enter an Order that the property in question be sold in one parcel and that a Special Master be appointed to conduct a foreclosure sale. The time to file objections has expired, and no objections have been filed.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the Amended R&R for clear error, and finding none, now concurs in both its reasoning and its result. The Court adopts the May 24, 2018 Amended R&R of Judge Tomlinson as if set forth herein. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion for default judgment is granted and damages are hereby set in a total amount of \$436,838.89, plus per diem interest on the principal amount of \$413,965.85. This amount *includes* the principal balance, pre-judgment interest, attorney's fees, certain other delineated expenses, and fees.

Plaintiff is directed to file a revised Proposed Judgment of Foreclosure and Sale¹ that comports with the Amended R&R on or before June 26, 2018. Plaintiff is also directed to serve a copy of this Order forthwith upon the Defendants by overnight and first-class mail and to file

¹ Plaintiff shall file a Proposed Judgment of Foreclosure and Sale that makes clear that the \$436,838.89 total amount includes the aforementioned fees. Plaintiff shall use the language "including" in the Proposed Judgment to refer to all of the fees except for the per diem interest on the principal. Plaintiff shall refrain from using the language "together with."

proof of such service on ECF within five (5) days.

Dated: Central Islip, N.Y.
June 12, 2018

/s/ Denis R. Hurley
Denis R. Hurley
United States District Judge